

ORIGINAL

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Attorneys for United States of America

FILED
DISTRICT COURT OF GUAM

JAN 12 2006

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

KUANG-HUA CHEN,

Defendant.

CRIMINAL CASE NO. 04-00008

**UNITED STATES' MOTION
FOR DISQUALIFICATION OF
DEFENSE COUNSEL**

The United States of America, through counsel, moves this Court for a hearing to determine whether, under the principles of Wheat v. United States, 486 U.S. 153 (1988), Howard Trapp, Esq. has an inherent conflict of interest regarding his representation of defendant KUANG-HUA CHEN and, if so, whether such conflict may be properly cured by a waiver.

The United States bases its motion on the following concerns: Howard Trapp of Howard Trapp Incorporated represents defendant in this matter. The government intends to call Peter Weay Jung Shih as a material witness at trial. Mr. Shih provided recorded conversations during part of an undercover controlled delivery and purchase of drugs in the government's investigation of the case. Mr. Shih was previously represented by counsel in the District Court of Guam, Criminal Case No. 99-00110 See Exhibits A (amended judgment), B (plea agreement), and C (indictment).

The government has notified defense counsel that it believes the Court must be alerted to an actual conflict of interest that arises out of such prior representation of a former client. The

1 government is not attempting in bad faith to preclude a defendant from having particularly able
2 counsel. The government wishes to establish a record and allow the Court to assess whether or
3 not a conflict of interest exists that could properly be cured by waiver.

4 There is no absolute right to counsel of choice. At issue are two Sixth Amendment
5 rights: (1) the qualified right to counsel of one's choice; and (2) the right to be represented by
6 counsel free of conflicts of interest. Wheat, 486 U.S. at 157. The "essential aim of the [Sixth]
7 Amendment is to guarantee an effective advocate" rather than to ensure that a defendant will be
8 represented by his preferred attorney. Id. at 159. The "effective assistance of counsel"
9 guaranteed by the Sixth Amendment necessarily includes a requirement that the attorney's
10 loyalties be undivided and free from any conflicts of interest. Because of the difficulties in
11 reconciling these competing interests, the district court is given substantial latitude in refusing
12 waivers of conflicts of interest. Id. at 163. The Supreme Court held in Wheat that a district court
13 may override a defendant's waiver of his attorney's conflict of interest when there is a showing
14 of actual conflict or a showing of a serious potential for conflict. Id. at 164; see United States v.
15 Cronic, 466 U.S. 648, 657 n.21 (1984)(Sixth Amendment inquiry properly focused on adversarial
16 process rather than relationship between defendant and lawyer).

17 Where representation of different clients is successive, as present here, a conflict may
18 arise if the current and former cases are substantially related, if the attorney reveals privileged
19 communications of the former client, or if the attorney otherwise divides his loyalties. Mannhalt
20 v. Reed, 847 F.2d 576, 579-80 (9th Cir. 1988). Such successive representation poses a conflict
21 because an attorney faces the dual risks of improperly using privileged communications from the
22 previous representation or, by protecting those communications, failing effectively to examine
23 the witness as his present client's interest required.

24 It is extremely difficult for an attorney to fulfill his ethical duties when faced with the
25 potential of having to forego zealous advocacy to protect client confidences, or conversely, of
26 having to forego client confidences to pursue zealous advocacy. For example, to protect client
27

1 confidences, the attorney may be prevented from conducting meaningful and effective cross-
2 examination, as the privileged confidences of one defendant cannot be used to advance the other
3 defendant's interests. Wheat, 486 U.S. at 156. "To limit cross-examination of the former client
4 to matters in the public record may prejudice the defendant if more searching inquiries are
5 necessary for complete evaluation of the testimony against the defendant." United States v.
6 Falzone, 766 F.Supp. 1265, 1271 (W.D.New York 1991).

7 Thus, to effectively represent defendant, counsel would be obligated to zealously examine
8 or impeach the subject witness if he was called as a witness, even to the point of trying to prove
9 that a former client is a liar. See Thomas v. Municipal Court of Antelope Valley Judicial
10 District, 878 F.2d 285, 288-90 (9th Cir. 1989) (counsel suffered impermissible conflict of
11 interest, even in successive representation situation, where he had to cross-examine former client,
12 but agreed to limit his cross-examination to lessen the adverse effect of any potential conflict).
13 Further, "[if] there is a reasonable probability that confidences were disclosed which could be
14 used against the former client in the later adverse representation, ... a substantial relationship
15 between the two cases will be presumed." Id.

16 In Wheat, the Supreme Court emphasized that the Sixth Amendment right to counsel has
17 more to do with ensuring the fairness and integrity of the adversarial process generally than with
18 vindicating a defendant's desire to have the particular lawyer that he most wants. 486 U.S. at
19 159-60. A waiver, signed at a time when a defendant judges remote the possibility of an actual
20 conflict inimical to his interest, is no guarantee that he will not reevaluate at a later date whether
21 there was a deprivation of effective assistance of counsel because his counsel's advocacy was
22 impaired as a result of a conflict. The trial court may disqualify counsel when "a potential for
23 conflict exists which may or may not burgeon into an actual conflict as the trial progresses." Id.
24 at 163. Here, the government has reason to believe that an actual conflict of interest exists.

25 //

26 //

1 This motion is in no way intended to impugn the integrity of counsel, but rather is
2 advanced in an abundance of caution so that the instant matter is better explored now.

3 RESPECTFULLY submitted this 12~~th~~ day of January 2006.

4 LEONARDO M. RAPADAS
5 United States Attorney
6 Districts of Guam and NMI

7 By: 
8 MARIVIC P. DAVID
9 Assistant U.S. Attorney
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United States District Court District of Guam

U.S.A.

VS.

SHIH, PETER WEAY JUNG

AMENDED JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 99-00110 -001

TRAPP, HOWARD

Defendant's Attorney

Date of Original Judgment: 08/28/01
(or Date of Last Amended Judgment)

Reason for Amendment: Modification of Supervision Conditions (18 U.S.C. § 3563(c) or 3583(e))

THE DEFENDANT:

☒ pleaded guilty to count(s) 1, 2, 3
☐ plead nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)
after a plea of not guilty.

FILED
DISTRICT COURT OF GUAM

DEC 17 2001

MARY L.M. MORAN
CLERK OF COURT

Title & Section

8 USC 1324(a)(2)(B)(ii)

ALIEN SMUGGLING

Nature of Offense

Date Offense

Concluded

08/23/99

Count

Number(s)

1, 2, 3

The defendant is sentenced as provided in pages 2 through _____ of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 586628548

Defendant's Date of Birth: 05/03/60

Defendant's USM No.: 01913093

Defendant's Residence Address:

21 Petmanente Court

Hyundai Subdivision

Toto, Guam

Defendant's Mailing Address:

P.O. Box 7865

Tamuning, Guam 96931

12/07/01

Date of Imposition of Judgment

Signature of Judicial Officer

John S. Unpingco

U.S. District Court Judge

Name and Title of Judicial Officer

DEC 17 2001

Defendant: **SHIH, PETER WEAY JUNG**

Case Number: **99-00110 -001**

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

Credit for Time Served. DEFENDANT SENTENCED TO TIME SERVED. COUNTS 1, 2, 3 TO RUN CONCURRENTLY.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

Defendant: **SHIH, PETER WEAY JUNG**Case Number: **99-00110 -001****SCHEDULE OF PAYMENTS**

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ in full immediately; or
- B ☐ immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than / / ;
- D ☐ in installments to commence day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E ☐ in installments of over a period of year(s) to commence day(s) after the date of this judgment.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Defendant: **SHIH, PETER WEAY JUNG**Case Number: **99-00110 -001****CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set on the Schedule of Payments page of this order, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals	\$ 300.00	\$ 0.00	\$ 0.00

☐ If applicable, restitution amount ordered pursuant to plea agreement..... **\$ 0.00**

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ **0.00**

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Page 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is waived as follows:

RESTITUTION

☐ The determination of restitution is deferred until / / . an Amended Judgment in a Criminal Case will be entered after such a determination.

☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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Totals: \$ 0.00 \$ 0.00

Defendant: **SHIH, PETER WEAY JUNG**Case Number: **99-00110 -001****STATEMENT OF REASONS****(Not for Public Disclosure)**☒ The court adopts the factual findings and guideline application in the presentence report.**OR**☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):**Guideline Range Determined by the Court:**Total Offense Level: 12Criminal History Category: IImprisonment Range: 36 TO 0 MONTHSSupervised Release Range: 240 TO 360 MONTHSFine Range: \$ 3,000.00 TO \$ 30,000.00☒ Fine waived or below the guideline range because of inability to pay.Total Amount of Restitution: \$ 0.00☐ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).☐ For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.☐ Partial restitution is ordered for the following reason(s):☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.**OR**☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):**OR**☒ The sentence departs from the guideline range:☒ upon motion of the government, as a result of defendant's substantial assistance.☐ for the following specific reason(s):

COPY

Shih.ple

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Attorneys for United States of America

FILED
DISTRICT COURT OF GUAM

SEP 16 1999

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PETER WEAY JUNG SHIH,

Defendant.

CRIMINAL CASE NO. 99-00110

PLEA AGREEMENT

Pursuant to Rule 11(e)(1)(B), the United States and the defendant, PETER WEAY JUNG SHIH, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to three counts of an Indictment charging him with Alien Smuggling, in violation of Title 8, United States Code, § 1324(a)(2)(B)(ii).

2. The defendant, PETER WEAY JUNG SHIH, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of alien smuggling and the importation, possession, and distribution of controlled substances and related unlawful activities, including the disposition of profits from and assets relating to such activities. He agrees to testify fully and truthfully before any grand juries and at any trials or proceedings if called as a witness, subject to prosecution for perjury for not testifying truthfully. The United States will make this cooperation known to the Court prior to the

1 defendant's sentencing. The defendant further understands that he remains liable and subject
2 to prosecution for any criminal schemes of which he does not fully advise the United States,
3 or for any material omissions in this regard. In return for this cooperation, the United States
4 agrees not to prosecute defendant for any other non-violent offenses now known to the
5 government or which he reveals to Federal authorities.
6

7 3. The defendant, PETER WEAY JUNG SHIH, understands and agrees to forfeit the
8 following, which were used by him to transport illegal aliens from Saipan to Guam: a Cessna
9 172 airplane, tail number N6230D, and a 1997 BMW automobile, Guam license plate
10 MER 1388.

11 4. The defendant, PETER WEAY JUNG SHIH, further agrees to submit to a
12 polygraph examination by any qualified Federal polygraph examiner. The defendant
13 understands that such polygraph examinations may include, but will not be limited to, his
14 knowledge of or involvement in alien smuggling and unlawful drug related activities, his
15 knowledge of others' involvement in such activities, and the identification of any and all
16 assets and conveyances acquired in whole or in part by the defendant or others through such
17 unlawful activities or the use of such assets or conveyances to further such unlawful activities.
18 Defendant understands that the government will rely on the polygraph in assessing whether
19 he has been fully truthful.

20 5. The defendant, PETER WEAY JUNG SHIH, understands that the maximum
21 sentence for Alien Smuggling, into a designated port of entry for financial gain, is
22 imprisonment for ten (10) years, with a mandatory minimum term of three (3) years
23 incarceration, a \$250,000 fine, and a \$100 special assessment fee, which must be paid at the
24 time of sentencing. Any sentence imposed shall include a term of supervised release of up to
25 three (3) years in addition to such terms of imprisonment. Defendant understands that, if at
26 any time while he is on supervised release he violates one of its conditions, his supervised
27 release may be revoked and he may be subject to an additional term of imprisonment. If
28 defendant cooperates as set forth in Paragraphs 2, 3, and 4, the government will recommend

1 that defendant receive the statutory minimum, if applicable, or minimum term of incarceration
2 recommended by the Sentencing Guidelines, whichever is greater. In addition, if defendant
3 provides full, truthful, and substantial assistance to investigating federal agencies, the
4 government will move the Court, as provided by USSG 5K.1.1, and 18 U.S.C. § 3553(e), for
5 a downward departure from the Guidelines and the statutory minimum sentence. Defendant
6 understands that "substantial assistance" encompasses such significant and useful assistance
7 directed to the investigation and prosecution of the criminal activities of other persons, as is
8 set forth by USSG 5K1.1. Defendant also understands that the decision whether to depart
9 from the Guidelines, and the statutory minimum sentence, and to what degree, is within the
10 discretion of the sentencing judge. The government agrees not to take a position concerning
11 that amount of incarceration the court should impose. If defendant does not fully cooperate
12 as set forth in Paragraphs 2, 3, and 4, the government will recommend whatever sentence of
13 incarceration within the Guidelines range it may deem appropriate.

14
15 The government will recommend a fine within the Sentencing Guidelines range. If
16 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a
17 full disclosure of his financial status to the United States Attorney's Office by completing a
18 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.
19 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

20 6. The defendant understands that to establish a violation of Alien Smuggling as
21 charged pursuant to 8 U.S.C. § 1324(a)(2)(B)(ii), the government must prove each of the
22 following elements beyond a reasonable doubt:

23 First: the defendant intentionally brought or attempted
to bring aliens to the United States;

24 Second: that these aliens did not have prior official
25 authorization to come to, enter or reside in the United
States;

26 Third: that the defendant knew or was in reckless
27 disregard of the fact that these aliens did not have
28 such official authorization;

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2 Fourth: that the defendant unlawfully and knowingly
3 brought aliens from Saipan to Guam by carrying them
4 aboard his Cessna 172 airplane;

5 Fifth: that defendant did this for the purpose of
6 commercial advantage or private financial gain.

7 7. The defendant understands that the Sentencing Guidelines apply to this offense.
8 The defendant also understands that the facts he stipulates to herein will be used, pursuant to
9 1B1.2, in calculating the applicable guidelines level, even though the counts underlying this
10 conduct may be dismissed. The Government and the defendant stipulate to the following
11 facts for purposes of the Sentencing Guidelines:

12 a. The defendant was born May 3, 1960, and is a citizen of the United States.

13 b. If the defendant cooperates with the United States by providing information
14 concerning the unlawful activities of others, the government agrees that any self-incriminating
15 information so provided will not be used against defendant in assessing his punishment, and
16 therefore, pursuant to § 1B1.8 of the Sentencing Guidelines, this information should not be
17 used in determining the applicable guidelines range.

18 c. Defendant is the majority shareholder of Sky Cabs Inc. which owns a Cessna 172
19 airplane. On three separate occasions, August 15, 1999; August 21 1999; and August 23, 1999,
20 defendant flew the airplane to Saipan and met a Chinese female, each of whom was a citizen of the
21 People's Republic of China and each of whom defendant knew to be an alien who had no official
22 permission to enter the United States. On two of the occasions defendant received \$5,500 U.S.
23 dollars, and on one of the occasions defendant received \$5,000 U.S. dollars from an alien, all in
24 exchange for transporting the aliens to Guam. On each occasion, defendant took the alien aboard
25 the Cessna 172 and flew back to Guam. Defendant did not notify U.S. Immigration and
26 Naturalization Service (INS) when he landed at the Guam International Airport, an INS designated
27 port of entry. On each occasion, he transferred the alien to his BMW automobile and drove the
28 alien from the airport without ever presenting her for inspection. Defendant was able to remove
these aliens from a secured part of the airport by providing each alien with an airport security

1 badge (E-badge) issued by the Guam Airport Authority for his company employees.

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3 d. The defendant understands that notwithstanding any agreement of the parties, the
4 United States Probation Office will make an independent application of the Sentencing
5 Guidelines. The defendant acknowledges that should there be discrepancies in the final
6 sentencing guidelines range projected by his counsel or any other person, such discrepancies
7 are not a basis to withdraw his guilty plea.

8 8. The defendant understands that this plea agreement depends on the fullness and
9 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should
10 fail to fulfill completely each and every one of his obligations under this plea agreement, or
11 make material omissions or intentional misstatements or engage in criminal conduct after the
12 entry of his plea agreement and before sentencing, the government will be free from its
13 obligations under the plea agreement; thus defendant, in addition to standing guilty of the
14 matters to which he has pled pursuant to this agreement, shall also be fully subject to criminal
15 prosecution for other crimes, and for the counts which were to be dismissed. In any such
16 prosecution, the prosecuting authorities, whether Federal, State, or Local, shall be free to use
17 against him, without limitation, any and all information, in whatever form, that he has
18 provided pursuant to this plea agreement or otherwise; defendant shall not assert any claim
19 under, the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of
20 Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other provision of
21 law, to attempt to bar such use of the information.

22 9. The defendant understands that his sentencing may be continued, at the sole
23 discretion of the United States, until after the indictment and trial of any associates involved.
24 This will also enable the Court to see the full degree of the defendant's cooperation. The
25 defendant therefore waives any right he may have to any speedy sentencing and hereby agrees
26 to any continuance of his sentencing date as it may become necessary.

27 10. The defendant waives any right to appeal or to collaterally attack this conviction
28 but reserves the right to appeal the sentence imposed in this case.

1
2 11. The defendant acknowledges that he has been advised of his rights as set forth
3 below prior to entering into this plea agreement. Specifically, defendant has been fully
4 advised of, has had sufficient opportunity to reflect upon, and understands the following:

5 a. The nature and elements of the charge and the mandatory minimum penalty
6 provided by law, if any, and the maximum possible penalty provided by law;

7 b. His right to be represented by an attorney;

8 c. His right to plead not guilty and the right to be tried by a jury and at that trial,
9 the right to be represented by counsel, the right to confront and cross-examine witnesses
10 against him, and the right not to be compelled to incriminate himself, that is, the right not to
11 testify;

12 d. That if he pleads guilty, there will not be a further trial of any kind on the
13 charges to which such plea is entered so that by entering into this plea agreement, he waives,
14 that is, gives up, the right to a trial;

15 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask his
16 questions about the offenses to which he has pled, under oath, and that if he answers these
17 questions under oath, on the record, his answers may later be used against him in prosecution
18 for perjury or false statement if an answer is untrue;

19 f. That he agrees that the plea agreement is voluntary and not a result of any force,
20 threats or promises apart from this plea agreement;

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2 g. The defendant is satisfied with the representation of his lawyer and feels that his
3 lawyer has done everything possible for his defense.

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5 DATED: SEP 14 1999

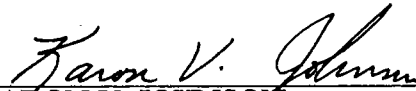

PETER WEAY JUNG SHIH
Defendant

7
8 DATED: SEP 14 1999


HOWARD TRAPP
Attorney for Defendant

10
11 FREDERICK A. BLACK
United States Attorney
Districts of Guam and CNMI

12
13 DATED: 9/15/99

14 By: 
KARON V. JOHNSON
Assistant U.S. Attorney

Shih.Ind

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Attorneys for the United States of America

FILED
DISTRICT COURT OF GUAM

SEP - 9 1999

MARY L. MCKEE
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.)
PETER WEAY JUNG SHIH,)
Defendant.)

CRIMINAL CASE NO. 99-00110

INDICTMENT

ALIEN SMUGGLING - THREE COUNTS
[8 U.S.C. § 1324(a)(2)(B)(ii)]

THE GRAND JURY CHARGES:

COUNT I - ALIEN SMUGGLING

On or about August 23, 1999, within the District of Guam and elsewhere, the defendant herein, PETER WEAY JUNG SHIH, knowing and in reckless disregard of the fact that an alien, Hui Li LU, had not received prior official authorization to come to, enter, or reside in the United States, did bring and attempt to bring said alien, Hui Li LU, to the United States, to-wit: the Guam International Airport, a designated port of entry, for the purpose of commercial advantage and private financial gain, all in violation of Title 8, United States Code, § 1324(a)(2)(B)(ii), and Title 18, United States Code, § 2.

GOVERNMENT
EXHIBIT

COPY


COUNT II - ALIEN SMUGGLING

On or about August 21, 1999, within the District of Guam and elsewhere, the defendant herein, PETER WEAY JUNG SHIH, knowing and in reckless disregard of the fact that an alien, a female citizen of the People's Republic of China, had not received prior official authorization to come to, enter, or reside in the United States, did bring and attempt to bring said alien to the United States, to-wit: the Guam International Airport, a designated port of entry, for the purpose of commercial advantage and private financial gain, all in violation of Title 8, United States Code, § 1324(a)(2)(B)(ii), and Title 18, United States Code, § 2.

COUNT III - ALIEN SMUGGLING

On or about August 15, 1999, within the District of Guam and elsewhere, the defendant herein, PETER WEAY JUNG SHIH, knowing and in reckless disregard of the fact that an alien, a female citizen of the People's Republic of China, had not received prior official authorization to come to, enter, or reside in the United States, did bring and attempt to bring said alien to the United States, to-wit: the Guam International Airport, a designated port of entry, for the purpose of commercial advantage and private financial gain, all in violation of Title 8, United States Code, § 1324(a)(2)(B)(ii), and Title 18, United States Code, § 2.

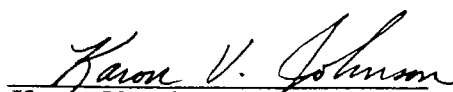
A TRUE BILL.



PHILLIP M. DENNIS
Foreperson

FREDERICK A. BLACK
United States Attorney
Districts of Guam and CNMI

By:



Karon V. Johnson
Assistant U.S. Attorney